

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
TERRE HAUTE DIVISION**

ANTONIO HANDLEY,

Plaintiff,

vs.

**WEXFORD MEDICAL SERVICES,
DR. DENNIS LEWTON, OD,
Dr. MICHAEL MITCHEFF, DO,
NURSE AMY WRIGHT, DON,
NURSE ADRINA MCDONALD, MRC**

Defendants.

Case No. 2:21-cv-00058-JPH-DLP

DEFENDANT DENNIS LEWTON, O.D.'S ANSWER TO COMPLAINT

Defendant Dennis Lewton, O.D. ("Dr. Lewton" or "Defendant"), by and through counsel, answers Plaintiff Antonio Handley's Complaint [Dkt. 1] as follows:

1. Dr. Lewton admits that this Court has jurisdiction over the Plaintiff's claims and that venue is proper.
2. Dr. Lewton admits that Plaintiff is currently incarcerated at the Wabash Valley Correctional Facility.
3. Dr. Lewton admits he was contracted to provide optometry services to inmates at the Wabash Valley Correctional Facility.
4. Dr. Lewton denies that he was deliberately indifferent to any of the Plaintiff's medical needs.
5. Dr. Lewton denies that any act or omission on his part violated any of the Plaintiff's constitutional rights.
6. Dr. Lewton denies all liability and any allegations of wrongdoing whatsoever.

7. To the extent not specifically addressed above, Dr. Lewton denies or lack knowledge or information sufficient to admit or deny the remaining allegations of the Plaintiff's Complaint.
8. Dr. Lewton denies the Plaintiff is entitled to any relief whatsoever and further denies the Plaintiff is entitled to any relief as requested in his Complaint.

AFFIRMATIVE DEFENSES

1. Plaintiff's Complaint fails to state a claim upon which relief may be granted.
2. At all times, Defendant provided Plaintiff with care and treatment that was within the standard of care for an optometrist under the circumstances then and there existing.
3. At no time was Defendant deliberately indifferent to any of Plaintiff's medical needs.
4. Defendant's duties were limited to those that were delegated to him or that he voluntarily undertook.
5. Defendant has immunity from liability for the allegations alleged in Plaintiff's Complaint by both state and federal law.
6. The claimed injuries and damages are the direct and proximate result of Plaintiff's own conduct and actions.
7. Defendant is entitled to the defense of qualified good faith immunity.
8. Defendant was not acting under color of law and accordingly cannot be subjected to any claims brought under the United States Constitution.
9. The claimed injuries and damages were proximately caused by the contributory

and/or comparative negligence of Plaintiff.

10. The claimed injuries and damages were proximately caused by an intervening and/or superseding cause.

11. Defendant acted in good faith and with reasonableness at all times relevant in Plaintiff's Complaint.

12. Plaintiff knowingly and voluntarily assumed and/or incurred the risk of injury.

13. Plaintiff may have failed to mitigate the alleged damages, thus barring or reducing recovery against Defendant.

14. Any injury to Plaintiff was a consequence of pre-existing medical and/or physical conditions.

15. Defendant reserves the right to assert such additional informative defenses which may come to light during the pendency of this action.

JURY DEMAND

Dr. Lewton hereby requests a trial by jury on all issues so triable.

Respectfully submitted,

/s/ Alex M. Beeman

Alex M. Beeman (Atty No. 31222-49)

REMINER CO., L.P.A.

College Park Plaza

8909 Purdue Road, Suite 200

Indianapolis, IN 46268

Tel: (317) 663-8570

Fax: (317) 228-0943

Email: abeeman@reminger.com

Counsel for Defendant, Dennis Lewton, O.D.

CERTIFICATE OF SERVICE

I certify that on December 7, 2021, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system. Notice of this filing will be sent to all registered parties by operation of the Court's electronic filing system, including the following:

Douglass R. Bitner
KATZ KORIN CUNNINGHAM PC
The Emelie Building
334 N. Senate Avenue
Indianapolis, IN 46204
Counsel for Defendants Wexford Medical Services, Dr. Michael Mitcheff, DO, Nurse Amy Wright, DON, Nurse Adrina McDonald

I further certify that on December 7, 2021, a copy of the foregoing will be mailed by U.S. Postal Service, first-class mail, postage prepaid, to the following non-CM/ECF participant:

Antonio Handley
#998126
Wabash Correctional Facility
6908 S. Old U.S. Hwy 41
P.O. Box 1111
Carlisle, IN 47838-1111

/s/ Alex M. Beeman

Alex M. Beeman (Atty No. 31222-49)
REMINER CO., L.P.A.